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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,118	03/15/2001	Chih-Hua Wang	3626-0178P	4606
2292	7590	05/18/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			SUBRAMANIAN, NARAYANSWAMY	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,118

Applicant(s)

WANG ET AL.

Examiner

Narayanswamy Subramanian

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to applicants' communication filed on February 22, 2006. Amendments to claims 1, 5, 6 and 10 have been entered. Rejections of claims made under 35 USC § 112, second paragraph are withdrawn in view of the amendments and persuasive arguments. Claims 1-10 are currently pending and have been examined. The rejections and response to arguments are stated below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1 and 6 recite the limitation "gradually lowering the commodity price". It is not clear what this limitation entails. Specifically the metes and bounds of the term "gradually lowering" are not clear. Appropriate clarification/correction is required. Claims 2-5 and 7-10 are rejected by dependence.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz et al (US Pub.No. 2001/0014868 A1) in view of Dutta (US Patent 6,606,604 B1).

Claim 1, Herz teaches a dynamic price changing web marketing system (See Herz Paragraph 290), which comprises: a commodity database for storing at least one commodity datum (See Herz Figure 1 and Paragraphs 22 and 54-73, the offer database is interpreted to include a commodity database); a commodity data providing module for providing the commodity datum in a specific format to a consumer (See Herz Figure 1, Abstract and Paragraphs 4 and 22, present and promote goods and services tailored to an individual customer implies this feature); wherein the system further comprises a dynamic price changing module for gradually lowering the commodity price starting from an initialization time (See Herz Figure 1 and Paragraph 73, lowering the price from \$ 30 to \$ 25 to \$ 20 implies this feature); and the commodity data providing module immediately provides the lowered price to the consumer (See Herz Paragraph 73). The system of Herz is interpreted to include the modules, which are nothing but software, required to perform the associated functions.

Herz does not explicitly teach the features of a trade processing module for receiving the consumer's order for purchasing the commodity, wherein the trade processing module receives the consumer's purchase order when the commodity price lowers to a specific value.

Dutta teaches the steps wherein the system further comprises a dynamic price changing module for changing the commodity price starting from an initialization time (See Dutta Figures 1 and 2, Column 5 lines 35-43, retailer server is interpreted to include a trade processing module); and the trade processing module receives the user's purchase order when the commodity price changes to a specific value (See Dutta Column 5 lines 35-43, modifying and

resubmitting the order is interpreted to include this feature). Herz already teaches the feature where the change in price is lower price.

Both Herz and Dutta are concerned with providing information to a user to facilitate e-commerce. It would have been obvious to modify Herz to include the teachings of Dutta. The combination of disclosures suggests that parties to the transaction would have benefited from the incremental updates provided to them over the Internet (See Dutta Column 1 lines 61-65).

Claim 6, Herz teaches a dynamic price changing web marketing method (See Herz Paragraph 290), which comprises the steps of: reading in a commodity datum from a commodity database (See Herz Figure 1 and Paragraphs 22 and 54-73, the offer database is interpreted to include a commodity database); providing the commodity datum in a specific format from a commodity data providing module to a consumer (See Herz Figure 1, Abstract and Paragraphs 4 and 22, presenting and promoting goods and services tailored to an individual customer implies this feature); wherein when the commodity data providing module provides the commodity datum to the consumer a dynamic price changing module gradually lowers the commodity price starting from an initial price beginning from an initialization time (See Herz Figure 1 and Paragraph 73, lowering the price from \$ 30 to \$ 25 to \$ 20 implies this feature); and the commodity data providing module immediately provides the lowered price to the consumer (See Herz Paragraph 73). The system of Herz is interpreted to include the modules, which are nothing but software, required to perform the associated functions.

Herz does not explicitly teach the steps of receiving the consumer's order for purchasing the commodity using a trade processing module, wherein the trade processing module receives the consumer's purchase order when the commodity price lowers to a specific value.

Dutta teaches the steps of dynamic price changing module for changing the commodity price starting from an initialization time (See Dutta Figures 1 and 2, Column 5 lines 35-43, retailer server is interpreted to include a trade processing module); and the trade processing module receives the user's purchase order when the commodity price changes to a specific value (See Dutta Column 5 lines 35-43, modifying and resubmitting the order is interpreted to include this feature). Herz already teaches the feature where the change in price is lower price.

Both Herz and Dutta are concerned with providing information to a user to facilitate e-commerce. It would have been obvious to modify Herz to include the teachings of Dutta. The combination of disclosures suggests that parties to the transaction would have benefited from the incremental updates provided to them over the Internet (See Dutta Column 1 lines 61-65).

Claims 2 and 7, Herz teaches wherein the dynamic price changing module further provides a price lowering period so that the commodity price goes back to its original price after the price lowering period (See Herz Paragraphs 281-287, expiration date implies this feature).

Claims 3 and 8, the feature wherein a dynamic price changing module further provides a limited quantity for the commodity so that the commodity price goes back to its original price when the limited quantity of commodities are sold out is old and well known. For instance merchants offer limited time sale while the supplies last. This feature enables the merchant to dispose off the inventory quickly.

Claims 4 and 9, Dutta teaches the step wherein the specific format refers to the web page format edited in hypertext markup language (HTML) (See Dutta Abstract and Column 3 lines 5-15).

Claims 5 and 10, Herz teaches the steps wherein the commodity data providing module provides the commodity data to the consumer through the Internet (See Herz Paragraphs 73 290) and the trade processing module receives the user's purchase order sent by the consumer via the Internet (See Dutta Figure 1, Abstract and Column 3 line 5 – Column 4 line 60).


Response to Arguments

6. Applicant's arguments with respect to pending claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (571) 272-6747. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dr. N. Subramanian
May 8, 2006